

REMARKS

I. Summary of the Examiner's Action

A. Claim Rejections

As set forth in paragraph 6 on page 2 of the November 14 Office Action, claims 1 – 3, 9 – 10, 16 – 18, 20 – 23, 26 – 30 and 34 – 45 stand rejected under 35 USC 103(a) as being unpatentable over United States Patent Serial No. 6,128,661 to Flanagin (hereinafter “Flanagin” or “the Flanagin patent”) in view of United States Patent Application Publication No. 2005/0198376 A1 to Kotzin (hereinafter “Kotzin” or “the Kotzin application”).

As set forth in paragraph 7 on page 9 of the November 14 Office Action, claims 5 – 7, 13 – 15, 19, 25 and 32 – 33 stand rejected under 35 USC 103(a) as being unpatentable over Flanagin in view of Kotzin and further in view of United States Patent Application Publication No. 2004/0185885 A1 to Kock (hereinafter “Kock” or “the Kock application”).

As set forth in paragraph 8 on page 11 of the November 14 Office Action, claims 4, 24 and 31 stand rejected under 35 USC 103(a) as being unpatentable over Flanagin in view of Kotzin and further in view of United States Patent Application Publication No. 2004/0023664 to Mirouze *et al.* (hereinafter “Mirouze” or “the Mirouze application”).

As set forth in paragraph 9 on page 12 of the November 14 Office Action, claim 11 stands rejected under 35 USC 103(a) as being unpatentable over Flanagin in view of Kotzin and further in view of United States Patent No. 5,961,588 to Cooper (hereinafter “Cooper” or “the Cooper patent”).

As set forth in paragraph 10 on page 12 of the November 14 Office Action, claim 12 stands rejected under 35 USC 103(a) as being unpatentable over Flanagin in view of Kotzin and further in view of United States Patent No. 6,882,659 to Novak *et al.* (hereinafter “Novak” or “the Novak patent”).

These rejections are respectfully disagreed with, and are traversed below.

II. Applicants’ Response – Claim Rejections

A. Rejection of Claims 1 – 3, 9 – 10, 16 – 18, 20 – 23, 26 – 30 and 34 – 45 under 35 U.S.C. 103(a)

Claim 1 (as amended) is reproduced here as a convenience to the Examiner (emphasis added):

1. A method of transferring service settings to a first device from a second device, wherein the first and second devices each have the same predetermined hierarchical data structure, comprising:

sending a data transfer request identifying a first portion of the hierarchical data structure from the first device to the second device, the first portion comprising data descriptive

of service provider provisioned service settings for a first service;
receiving at the first device the data descriptive of service provider provisioned service settings stored at the first portion of the hierarchical data structure of the second device from the second device;
storing the received data at the first portion of the hierarchical data structure of the first device; and
using, at the first device, the data stored at the first portion of the hierarchical data structure as settings for the first service.

Applicant respectfully submits that the relied-upon combination neither describes nor suggests the emphasized subject matter. As a result, the Examiner has not established a prima facie case of obviousness because the relied-upon combination does teach each and every limitation of claim 1. Accordingly, Applicant respectfully requests that the outstanding rejection be withdrawn.

In particular, claim 1 makes reference to “sending a data transfer request *identifying a first portion of the hierarchical data structure ...*”; “receiving at the first device the data descriptive of service provider provisioned service settings *stored at the first portion of the hierarchical data structure* of the second device from the second device”; “*storing the received data at the first portion of the hierarchical data structure of the first device*”; and “using, at the first device, *the data stored at the first portion of the hierarchical data structure* as settings for the first service.” In order to set forth a

proper basis of rejection, each and every claim element must be present in the relied-upon combination. It is not seen where the foregoing emphasized portions of claim 1 appear in the relied-upon portions of the Flanagan reference.

Continuing, Applicants' invention is concerned with solving problems described at page 1, line 24 – page 2 line 7:

“Different users may use different services and use different service providers. Even if the same service provider is used for the same service, the user may have selected personal options for the service.

A problem therefore arises when a user wishes to use a mobile communications device that they have not previously or recently used. The device will not know the users current services, service providers, service settings etc.

One option would be to configure the new phone so that it has the relevant service settings. The service settings are generally provided by the relevant service providers, for example using OMA provisioning. The user of the new device would therefore need to remember the identity of the relevant service providers and contact each in turn to achieve the necessary service settings. This is laborious and is a disincentive to a user switching to use a different mobile communications device.

It would be desirable to improve the ease with which a user can switch between using telecommunications devices.”

Neither Flanagan nor Kotzin either show appreciation for such problems or present solutions to such problems.

For example, Flanagan is concerned with allowing a mobile device to connect to a desktop using any one of a plurality of communication links and avoid reconfiguring the communication settings and data transfer parameters each time a user connects the mobile device to the desktop. This is described at column 1, line 66 - column 2, line 17 reproduced here:

“Prior art systems are not convenient to use since each user may have to reconfigure communication settings and data transfer parameters each time the user connects the mobile device to the desktop computer. In many situations, each of the users must be using the same type of mobile device and the same type of communication link.

There is a continuing need to improve the interaction between a desktop computer and such mobile devices. In particular, there is a need to allow the mobile device to connect to the desktop computer using any one of a plurality of different communication links so as to give the user flexibility, particularly when the mobile device is remote from the desktop computer. In addition, there is a need to allow a plurality of mobile devices to interact with the desktop computer without requiring an inordinate amount of configuration by the user to transfer data or form the communication link as well as allow the user to choose a particular communication link independent of other users interacting with the desktop computer.”

Flanagan shows no appreciation for the problem described above reproduced from Applicants' description. In addition, Flanagan does not disclose "wherein the first and second devices each have the same predetermined hierarchical data structure", "a data transfer request identifying a first portion of the hierarchical data structure", nor "storing

the received data at the first portion of the hierarchical data structure of the first device" as is required by claim 1.

Regarding Kotzin, the cited paragraphs from Kotzin ([0021-0022]) do not disclose that service settings are being provisioned by a service provider. Kotzin, instead describes an embodiment where the content is transferred to the second device from the content provider (lines 6-8 of [0021]). Furthermore, Kotzin's disclosure is mainly about the transfer of protected data between different devices and does not describe or suggest the problem described above in the paragraphs reproduced from Applicants' description.

Accordingly, Applicants respectfully submit that claim 1 is patentable over the relied-upon combination.

Applicants present the following additional arguments further supporting the patentability of certain of the dependent claims.

Claim 2 recites "wherein receiving data comprises receiving a data file stored at the first portion of the hierarchical data structure that is associated with an identifier stored in a first smart card." Paragraph [0028] of Kotzin neither describes nor suggests this subject matter of claim 2. In particular, this portion of Kotzin has to do with bar codes and scanners. It is not seen what relevance operations of bar codes and scanners have to do with the subject matter of claim 2. These arguments are applicable to claim 22 as well.

Claim 3 recites “wherein the received data file comprises the identifier.” Paragraph [0023] of Kotzin provides a description in general terms of a wireless communications device that is apparently of relevance to the methods of Kotzin. Paragraph [0023] mention “uniquely identifiable set of information”, but it is not seen what is used to identify the “uniquely identifiable set of information”. If the Examiner disagrees, Applicant respectfully requests that the Examiner identify with particularity exactly which portion of paragraph [0023] that the Examiner is relying on. If the Examiner is unable to do so, Applicant requests that the rejection of claim 3 be withdrawn for these additional reasons. These arguments are applicable to claim 23 as well.

Claim 9 recites “wherein the received data comprises settings controlled by the service provider of the first service.” Applicant submits that the foregoing arguments regarding “content” and the Kotzin reference are equally applicable here. It is not seen how content transfer as described in Kotzin has any relevance to “settings controlled by the service provider of the first service.” This further supports the patentability of claim 9.

Claim 10 recites “wherein the received data includes data identifying user selections made during user configuration of the first service.” The relied-upon portion of Kotzin speaks in generalities and simply is not specific enough to conclude that this

subject matter of claim 10 is present. If there is any doubt, Applicant reproduces the relied-upon portion of Kotzin here:

“A method and apparatus for transferring information between electronic devices is disclosed. A first electronic device has information, commonly referred to as data or content, stored therein. The content is transferable to another electronic device, either from the first electronic device or another source. To transfer the content between a first device and a second device, the user selects the desired content to be transferred. Next, a uniquely identifiable set of information is associated with the content. The uniquely identifiable set of information is then transferred to the second device. The second device receives the content from a source having at least the uniquely identifiable set of information.”

This portion of Kotzin is simply too general to allow one to conclude that the specific subject matter of claim 10 is present. This further supports the patentability of claim 10.

Claim 27 recites “further comprising a smart card housing for a smart card that enables the device to participate in a telecommunications network, *wherein the processor is operable to read data from the first portion of the hierarchical data structure that depends upon the identity of the housed smart card.*” Applicant respectfully submits that for a proper rejection to be set forth all elements of the claim must be found in the relied-upon combination. The foregoing emphasized portion of claim 27 is neither described nor suggested by the relied-upon portion of Kotzin. It is not seen what relevance operations performed using scanners and bar codes have to do with this subject matter of

claim 27. These arguments also provide additional support for the patentability of claim 35.

In view of the foregoing arguments, Applicant respectfully requests that the Examiner withdraw the rejection of claim 1. Applicants also respectfully submit that independent claims 21, 26, 28, 34, 40 and 43 are allowable for reasons similar to those set forth above with respect to claim 1. Applicants respectfully submit that the remaining art, whether taken singly or in combination with the primary combination does not remedy the deficiencies of the Flanagin and Kotzin combination. Accordingly, Applicant respectfully submits that the remaining dependent claims are allowable both as depending from allowable base claims and for reasons having to do with their independently-recited features.

B. Rejection of Claims 5 – 7, 13 – 15, 19, 25 and 32 – 33
under 35 U.S.C. 103(a)

Claim 5 recites “wherein the received data file is usable, at the first device, as settings for a first service when the first smart card is used with the first device.” Although paragraph [0052] of Kock mentions movement of a SIM and “book-keeping” operations to track the movement, it is not seen where “the copied data file is usable, at the first device, as settings for a first service when the first smart card is used with the first device” is either described or suggested. Applicant therefore respectfully requests that the rejection of claim 5 be withdrawn. Similar arguments support the patentability of claim 6.

C. Rejection of Claims 4, 24 and 31
under 35 U.S.C. 103(a)

Applicant respectfully submits that Mirouze does not remedy the foregoing deficiencies of the primary combination. Accordingly, claims 4 and 24 are patentable both as depending from allowable base claims for the foregoing reasons, and for reasons attributable to their independently-recited subject matter.

D. Rejection of Claim 11
under 35 U.S.C. 103(a)

Claim 11 recites “wherein the user of the first device is unable to amend the received data.” Applicant notes that the relevant portion of Cooper appearing at column 2, lines 9 – 12 states:

“The portion of the object model may not contain the objects in question, and so the client station may be unable to alter its copy of the model to reflect these changes.”

This portion of Cooper has to do with operations performed by a client station, and not by a user. Accordingly, Cooper neither describes nor suggests the subject matter of claim 11. Applicant therefore respectfully requests that the rejection of claim 11 be withdrawn.

E. Rejection of Claim 12
under 35 U.S.C. 103(a)

Applicant respectfully submits that Novak does not remedy the foregoing deficiencies of the primary combination. Accordingly, claim 12 is patentable both as depending from an allowable base claim for the foregoing reasons, and for reasons attributable to its independently-recited subject matter.

III. Conclusion

The Applicant submits that in light of the foregoing remarks the application is now in condition for allowance. Applicant therefore respectfully requests that the outstanding rejections be withdrawn and that the case be passed to issuance.

Respectfully submitted,

April 14, 2009

Date

David M. O'Neill (35,304)

David M. O'Neill (35,304)

Customer No.: 29683

HARRINGTON & SMITH PC
4 Research Drive
Shelton, CT 06484-6212
Telephone: (203) 925-9400
Facsimile: (203) 944-0245
Email: DOneill@hspatent.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. 1450, Alexandria, VA 22313-1450 on the date indicated.

April 14, 2009

Date

David M. O'Neill

Name of Person Making Deposit